

ASSEMBLY BILL

No. 446

Introduced by Assembly Member Matthews

February 14, 2003

An act to amend Sections 210, 215, and 220 of the Labor Code, relating to state employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 446, as introduced, Matthews. State employees: wages.

Existing law sets forth the requirements for payment cycles for employees of private employers, and provides that any person who fails to pay the wages of these employees as provided in specified provisions is subject to a civil penalty, and any person who violates certain of these provisions is guilty of a misdemeanor.

This bill would require that wages earned by state employees be paid on regularly designated paydays, and wages earned by state employees performed in excess of the normal work period be paid no later than the next payroll period. It would specify that civil and misdemeanor penalties would apply for violation of this requirement.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 210 of the Labor Code is amended to read:

210. In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, *and in subdivision (c) of Section 220*, shall be subject to a civil penalty as follows:

(a) For any initial violation, fifty dollars (\$50) for each failure to pay each employee.

(b) For each subsequent violation, or any willful or intentional violation, one hundred dollars (\$100) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

The penalty shall be recovered by the Labor Commissioner as part of a hearing held to recover unpaid wages and penalties pursuant to this chapter or in an independent civil action. The action shall be brought in the name of the people of the State of California and the Labor Commissioner and the attorneys thereof may proceed and act for and on behalf of the people in bringing these actions. All money recovered therein shall be paid into the State Treasury to the credit of the General Fund.

SEC. 2. Section 215 of the Labor Code is amended to read:

215. Any person, or the agent, manager, superintendent or officer thereof, who violates any provision of ~~Sections~~ *Section* 204, 204b, 205, 207, 208, 209, ~~or~~ 212, *or* 220 is guilty of a misdemeanor. Any failure to keep posted any notice required by Section 207 is prima facie evidence of a violation of such sections.

SEC. 3. Section 220 of the Labor Code is amended to read:

220. (a) Sections 201.5, 201.7, 203.1, 203.5, 204, 204a, 204b, 204c, 204.1, 205, and 205.5 do not apply to the payment of wages of employees directly employed by the State of California. Except as provided in subdivision (b), all other employment is subject to these provisions.

(b) Sections 200 to 211, inclusive, and Sections 215 to 219, inclusive, do not apply to the payment of wages of employees directly employed by any county, incorporated city, or town or other municipal corporation. All other employments are subject to these provisions.

1 (c) *Notwithstanding any other provision of law, wages earned*
2 *by state employees shall be paid on regularly designated paydays.*
3 *Wages earned by state employees for labor performed in excess of*
4 *the normal work period shall be paid no later than the next regular*
5 *payroll period.*

6 SEC. 4. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

